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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 KEVIN D. CARSON,

9 Petitioner,

10 v.

11 JASON BENNETT,

12 Respondent.

CASE NO. 3:24-cv-05536

ORDER ADOPTING REPORT AND
RECOMMENDATION

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14 This matter comes before the Court on United States Magistrate Judge
15 Michelle L. Peterson's Report and Recommendation (R&R) regarding Kevin D.
16 Carson's habeas petition. Dkt. No. 15. The R&R recommends dismissing the
17 petition and this case without prejudice.

18 Before recommending dismissal, Judge Peterson ordered Carson to show
19 cause as to why his petition should not be dismissed for either (1) failure to exhaust
20 state-court remedies as required by 28 U.S.C. § 2254, or (2) failure to comply with
21 the one-year statute of limitations. Dkt. No. 7. Carson did not respond.

22 The day the R&R issued, Carson filed a pleading titled "Supplemental
23 Authority." Dkt. No. 16. The pleading references one case relevant to the merits of

1 his habeas petition and not the issues on which he was ordered to show cause. *See*
2 *id.* Accordingly, the Court does not construe this filing as a response to the order to
3 show cause or as an objection to the R&R.

4 Because no one has objected to the R&R and the time for objecting has
5 passed, the Court may adopt the R&R if it is satisfied there are no clear errors on
6 the face of the record. Fed. R. Civ. P. 72(b) Advisory Committee's Note to 1983
7 Amendment. The Court agrees with Judge Peterson's reasoning and finds no clear
8 error. Thus, based on the R&R and the record, the Court ORDERS:

- 9 1) The Court ADOPTS the R&R at Dkt. No. 15.
- 10 2) Carson's habeas petition and this case are DISMISSED without prejudice.
- 11 3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases, a
12 certificate of appealability is DENIED.
- 13 4) Any pending motions are DENIED AS MOOT, and any scheduled
14 hearings are STRICKEN.
- 15 5) The Clerk of the Court is directed to enter this Order and the
16 corresponding Judgment, send copies of each to Petitioner and to Judge
17 Michelle L. Peterson, and close this case.

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19 Dated this 3rd day of October, 2024.

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21 Jamal N. Whitehead
22 United States District Judge
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